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Before the
Federal Communications Commission
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re application of:)
)
WORLDCOM, INC., and its Subsidiaries as)
DEBTOR IN POSSESSION)
Transferor)
)
AND)
)
MCI, INC., and its Subsidiaries)
Transferee)
)
For consent to transfer of control of licenses and)
authorizations held by WorldCom in bankruptcy)

WC Docket 02-215

To: The Commission

THIRD SUPPLEMENT TO
PETITION TO DENY TRANSFER OF LICENSES,
AUTHORIZATIONS, AND CERTIFICATIONS
OF WORLDCOM, INC.

Margaret F. Snyder, by her attorneys, hereby supplements her petition to deny the above referenced applications for transfer of control of WorldCom, Inc.'s ("WorldCom") licenses, authorizations and certifications.

On August 7, 2003 Ms. Snyder filed her Petition to Deny in the above captioned proceeding. In her Petition to Deny, Ms. Snyder, *inter alia*, argued that WorldCom failed to disclose material information concerning its qualifications to be an FCC licensee. For example, Ms Snyder argued that WorldCom's answers to questions 75 and 77 on FCC Form 603 lack candor.¹ Question 75 asks whether the Assignee or Transferee or any

¹ See, e.g. FCC Form 603 FCC Wireless Telecommunications Bureau Application for Assignment of Authorizations and Transfers of Control, lead call sign WPNU610, File No 0001348258.

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party to the application has ever been convicted of a felony. As discussed in the Petition to Deny, WorldCom's key officers have been convicted of felonies for crimes committed in their capacities as employees of WorldCom. Question 77 asks whether the Assignee or Transferee or any party to the application is a party in a pending criminal matter. As Ms. Snyder showed, Scott D. Sullivan, WorldCom's former Chief Financial Officer, Treasurer and Secretary has been indicted on numerous criminal fraud and conspiracy charges and is awaiting trial. The Department of Justice is still investigating WorldCom with a view toward bringing criminal charges. Ms. Snyder believes that these matters should have been disclosed in WorldCom's applications.

WorldCom in its opposition filed August 18, 2003, argued that Ms. Snyder's interpretation of the disclosure requirements of FCC Form 603 was "based on a careless reading of the relevant questions."² As WorldCom contends "former WorldCom employees that were responsible for the accounting irregularities are no longer associated with the Company and were not with the Company when the applications were filed. As a result, those individuals are outside the scope of Question 75, and Snyder's contrary assertions are mistaken."³ WorldCom's opposition continues by asserting, "WorldCom has not been charged in any criminal action, nor was it the subject of any such action at the time it filed its Applications with the Commission."⁴

WorldCom has now been criminally charged. As set forth in Ms. Snyder's First Supplement to Petition to Deny Transfer of Licenses, Authorizations and Certifications of WorldCom, Inc., filed August 29, 2003, WorldCom, and six top managers have been charged by the state of Oklahoma with 15 felony counts of violating the Oklahoma

² Reply Comments of WorldCom, Inc. in Support of Applications, p 14.

³ *Id* (emphasis added).

⁴ *Id*

Securities Act. At the time of the indictment, Oklahoma Attorney General W. A. Drew Edmondson stated: "We allege the company and these six employees executed a scheme to artificially inflate the value of WorldCom stock and bonds by intentionally falsifying information filed with the Securities and Exchange Commission."

The Oklahoma Office of the Attorney General said that it charged WorldCom and its employees because they stood to profit from the fraud. Attorney General Edmondson said: "It is rare that we name a company in a criminal complaint, but in this case it is justified. The decision to commit fraud was a company decision. This is not some rogue employee trying to line his own pockets. This was a conscious decision made for the benefit of the company."

The criminal indictment against WorldCom was handed down on August 27, 2003. Section 1.65 of the Commission's rules provides in pertinent part:

Each applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application or in Commission proceedings involving a pending application. Whenever the information furnished in the pending application is no longer substantially accurate and complete in all significant respects, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, amend or request the amendment of his application so as to furnish such additional or corrected information as may be appropriate. Whenever there has been a substantial change as to any other matter which may be of decisional significance in a Commission proceeding involving the pending application, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, submit a statement furnishing such additional or corrected information as may be appropriate, which shall be served upon parties of record in accordance with § 1.47.

The thirtieth day after the Oklahoma indictment was September 26, 2003. WorldCom failed to amend its pending transfer applications to notify the FCC that it had been

criminally indicted. This cannot be viewed as an oversight, but rather must be seen for what it is, a further attempt on the part of WorldCom to conceal and misrepresent material information.

Ms. Snyder believes that as a matter of law WorldCom should have disclosed the criminal indictment and convictions of its employees. In its response, WorldCom argued that no disclosure was required because these were former employees and that WorldCom had not been charged with any criminal action. Thus, in its reply, WorldCom specifically acknowledged the need to report any criminal indictments to the Commission. Why did it fail to do so? It certainly knew of the criminal indictment. A copy was filed in this proceeding and served on counsel. WorldCom has many experienced communications attorneys, who are surely familiar with the requirements of Section 1.65 of the rules.⁵ These attorneys must have advised WorldCom of its obligations to amend its application. Clearly, WorldCom was aware of its responsibility to report but, apparently despite the advice of its attorneys, chose not to amend its applications.

This type of conduct is all too familiar. WorldCom has consistently refused to be candid with the FCC and other government regulatory agencies. It is this very type of cavalier attitude toward specific regulatory requirements that led to the filing of fraudulent reports with the Securities and Exchange Commission and the FCC. If WorldCom had been candid with the SEC and the FCC, perhaps Ms. Snyder's shares in WorldCom would not now be nearly worthless. WorldCom claims that it is a new and improved company operating under the strictest ethical standards, yet it cannot bring

⁵ WorldCom's Reply Comments list no less than eight attorneys that prepared or reviewed the document

itself to be candid with the FCC. WorldCom cannot be trusted to file a simple amendment setting forth the circumstances of its criminal indictment.

WorldCom claims it operates under the strictest ethical standards. However, an ethical person or company accepts the consequences of its actions. Character matters in the lives of individuals as well as large corporations. Character has as much to do with how we handle our failings as the failings themselves. WorldCom has repeatedly refused to own up to its failings. It blames former executives, as if these executives were somehow never part of the company and its prevailing corporate culture. In filings with the FCC it refers to the criminal fraud that it committed as accounting irregularities. It cannot bring itself to tell the truth about what it has done and the injury it has caused to thousands of innocent investors. Rather than admit its failings, WorldCom seeks to change its name to MCI, no doubt in the hope that the public will not associate MCI with WorldCom's fraud. Changing its name to Mother Theresa Communications would not help; WorldCom/MCI or even MTC would still be a criminal enterprise.

Despite its claims of high ethical standards, WorldCom cannot bring itself to report to the FCC that it has been criminally indicted. WorldCom has clearly failed to meet its reporting requirements under Section 1.65 of the Commission's rules. In past cases where an applicant has withheld significant information, the Commission has not hesitated to dismiss its application or designate it for hearing on lack of candor or misrepresentation issues. See, e.g. *Garden State Broadcasting Ltd. Partnership v. FCC*, 996 F.2d 386 (D.C. Cir. 1993). In *Garden State*, the Court found that the applicant had deliberately withheld information from the FCC. The Court affirmed that each applicant is responsible for the continuing accuracy and completeness of information furnished in a

pending application. Further, the Court held that the FCC "is not expected to play procedural games with those who come before it in order to ascertain the truth."⁶

Accordingly, in addition to any other issues concerning WorldCom's character qualifications, the FCC should designate an issue to determine whether WorldCom lacked candor or made material misrepresentation when it withheld information from the Commission concerning its numerous felony indictments.

Respectfully submitted,

By:



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⁶ *Garden State*, at p. 392 citing *RKO General, Inc v FCC*, 670 F.2d 215, 229 (D.C. Cir. 1981) Accord, *Arizona Mobile Telephone Company*, 66 FCC 2d 691, 703 (1977)

CERTIFICATE OF SERVICE

I, Alissa Portillo, do hereby certify that a copy of the foregoing "Third Supplement to Petition to Deny Transfer of Licenses, Authorizations, and Certifications of WorldCom, Inc." was mailed by First Class U.S. Mail, postage prepaid or via email, this 8th day of October, 2003, to the following:

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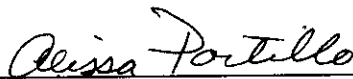
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